

# SENATE RECORD VOTE ANALYSIS

104th Congress  
1st Session

Vote No. 57

January 27, 1995, 11:53 a.m.  
Page S-1654 Temp. Record

## UNFUNDED MANDATES/December 31, 2002 Sunset

**SUBJECT:** Unfunded Mandate Reform Act of 1995 . . . S. 1. Kempthorne motion to table the Levin amendment No. 175.

### ACTION: MOTION TO TABLE AGREED TO, 54-43

**SYNOPSIS:** Pertinent votes on this legislation include Nos. 15-41, 43-45, 47-56, and 58-61.

As reported by the Governmental Affairs Committee and the Budget Committee, S. 1, the Unfunded Mandate Reform Act of 1995, will create 2 majority (51-vote) points of order in the Senate. The first will lie against the consideration of a bill or joint resolution reported by an authorizing committee if it contains mandates and if Congressional Budget Office (CBO) cost estimates on those mandates are unavailable. The second point of order will lie against the consideration of a bill, joint resolution, motion, amendment, or conference report that will cause the total cost of unfunded intergovernmental mandates in the legislation to exceed \$50 million.

**The Levin amendment** would add a December 31, 2002 sunset date for this Act. It would also require the Governmental Affairs Committee and the Budget Committee to hold joint hearings no later than December 31, 1998 on the operations of this Act and report on their findings and recommendations.

Debate was limited by unanimous consent. Following debate, Senator Kempthorne moved to table the Levin amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

**Those favoring** the motion to table contended:

Congress frequently imposes a sunset date on new programs that it enacts. The purpose in so doing is to guard against wasteful government spending. Often, a program does not work as planned, it becomes unnecessary, or changing conditions make it advisable for it to be changed to meet those new conditions. Congress appropriately does not want Federal agencies to coast along on inertia, serving no purpose whatsoever, and spending a great deal of money in the process.

(See other side)

YEAS (54)			NAYS (43)			NOT VOTING (3)	
Republicans (50 or 98%)		Democrats (4 or 9%)	Republicans (1 or 2%)		Democrats (42 or 91%)	Republicans (2)	Democrats (1)
Abraham	Hutchison	Breaux	Jeffords	Akaka	Kennedy	Gramm- <sup>2</sup>	Inouye- <sup>2</sup>
Ashcroft	Inhofe	Feinstein		Baucus	Kerrey	McCain- <sup>2</sup>	
Bennett	Kassebaum	Graham		Biden	Kerry		
Bond	Kempthorne	Heflin		Bingaman	Kohl		
Brown	Kyl			Boxer	Lautenberg		
Burns	Lott			Bradley	Leahy		
Chafee	Lugar			Bryan	Levin		
Coats	Mack			Bumpers	Lieberman		
Cochran	McConnell			Byrd	Mikulski		
Cohen	Murkowski			Campbell	Moseley-Braun		
Coverdell	Nickles			Conrad	Moynihan		
Craig	Packwood			Daschle	Murray		
D'Amato	Pressler			Dodd	Nunn		
DeWine	Roth			Dorgan	Pell		
Dole	Santorum			Exon	Pryor		
Domenici	Shelby			Feingold	Reid		
Faircloth	Simpson			Ford	Robb		
Frist	Smith			Glenn	Rockefeller		
Gorton	Snowe			Harkin	Sarbanes		
Grams	Specter			Hollings	Simon		
Grassley	Stevens			Johnston	Wellstone		
Gregg	Thomas						
Hatch	Thompson						
Hatfield	Thurmond						
Helms	Warner						

#### EXPLANATION OF ABSENCE:

1—Official Business  
2—Necessarily Absent  
3—Illness  
4—Other

#### SYMBOLS:

AY—Announced Yea  
AN—Announced Nay  
PY—Paired Yea  
PN—Paired Nay

Unfortunately, this noble intent has not always worked well in practice. Many programs that have sunset dates and that become controversial have not been reauthorized and have received continued funding. Rather than acting as a guarantee of review, sunset dates have sometimes worked to guarantee that review will not take place. An example of such a law is the Endangered Species Act, which has not been brought up for an extension and revamping because of its controversial nature, but which has continued to receive funding. Without a sunset, Congress tends to fix problems with programs incrementally as they surface. With a sunset, Congress waits for a reauthorization date to arrive at which time it rewrites the program to fix problems. If a program is so controversial that it is funded without a reauthorization, then it is never fixed.

With these facts in mind, we invite our colleagues to consider the advisability of putting a sunset provision in S. 1. S. 1 will not enact a new government program to spend money; instead, it will act as a break on Federal efforts to force State and local governments to spend money. Thus, the main purpose of enacting a sunset provision--to restrain government from wasting money--does not apply in this case. Further, S. 1 will act as a break on government by enacting new processes to force the Federal Government to consider the costs of its actions. These processes are detailed, and novel, and will therefore likely need fine tuning once they are put into practice. We do not pretend to believe that S. 1 will prove to be perfect legislation--some incremental adjustments will probably be advisable. Sunset clauses, though, make incremental changes less likely, because Members tend to wait until a bill's reauthorization date before they suggest changes.

In summary, there is no reason to put a sunset clause on a bill that is intended to act as a check on government spending because the purpose of a sunset clause is itself to act as a check on government spending. Further, there is plenty of reason to oppose such an action in this case because sunset clauses often serve to discourage the enactment of advisable, incremental changes to a bill. Therefore, we urge the tabling of the Levin amendment.

**Those opposing the motion to table contended:**

Last year the Governmental Affairs Committee unanimously approved a 4-year sunset provision on unfunded mandates legislation (S. 993). That bill was much less complicated than S. 1, but all Senators on the Committee agreed that it would be prudent to force a review of it in a few years because it will have such a large impact. This year, Senate Republicans on a party-line vote in the Governmental Affairs Committee rejected a sunset provision for S. 1. That vote was unfortunate, and we hope to reverse its results with this amendment.

As Senators are aware, sunset provisions are ordinarily included in bills to force the review of programs. Those reviews make it possible to judge the efficiency, effectiveness, and continued need for Federal programs. However, it would be wrong to conclude from this fact that because S. 1 will create a process instead of a program a sunset provision should not apply. We disagree because we think that this process itself may wind up causing a great deal of time and money to be wasted. S. 1 is very complicated, and its application could thus tie Congress up in knots. Important, needed legislation may be delayed or blocked. Therefore, a review that forces us to reexamine S. 1 is advisable. Senators should also be wary of concluding that the Levin amendment is unnecessary because incremental changes will always be possible. While it is true that Congress may enact any change to any law at any time, it is also true that it usually will not. The one way to force it to review is to enact a sunset provision.

The Levin amendment would sunset the bill in 6 years instead of 4 for two reasons. First, some Senators in the Governmental Affairs Committee expressed concern that a 4-year termination date would somehow interfere with attempts to pass a balanced budget constitutional amendment. We did not understand their reasoning, but we accept their concern as genuine and have accordingly proposed a 6-year termination date. The other reason for extending the date is to make it in accordance with another provision of this bill. The funds that will be provided to the CBO by this Act will run out in the year 2002, making that year the natural termination point for S. 1.

Republican Senators have told us that they only agreed to a termination date last year in the spirit of compromise, and that they are not willing to compromise on the issue now that they are in the majority. We find this change to be regrettable, because the reasons for enacting a sunset provision are as compelling as ever. We hope that our colleagues have found our arguments persuasive, and that they will accordingly join us in opposing the motion to table the Levin amendment.